

EXHIBIT

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DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop B3-30-03
Baltimore, Maryland 21244-1850



Office of Acquisition & Grants Management

June 4, 2020

To: Gil Mucke

Subject: CMS' Response to ACLR's email dated May 28, 2020

Dear Mr. Mucke,

This letter responds to your May 28, 2020 email seeking confirmation of ACLR's understanding of CMS' request for a revised settlement proposal. Please note that this letter does not commit CMS to accepting any termination settlement proposal submitted to the agency.

Although CMS agrees that the termination of the 2007 audit and the 2010 audit should be addressed separately, **it is not clear how the value of each audit would be determined.** If the value of each audit is determined by applying the contingency fee percentage to the estimated amount of overpayments expected to be recovered or collected by CMS for that audit, CMS does not believe such a calculation would appropriately measure the value of the audit. For example, that calculation would not account for the likelihood that fewer overpayments would be identified if the audit methodology was flawed. Additionally, that calculation would not account for the likelihood that some of the identified overpayments would be overturned on appeal.

In light of the foregoing, if ACLR agrees that the contract price for each audit is \$0, CMS will consider a revised proposal in which ACLR seeks all compensation for each audit under the "reasonable charges" prong of the third sentence of FAR 52.212-4(I). We would request that ACLR review any such charges to ensure it is not seeking compensation for costs that are unallowable under the FAR, and submit any and all documentation it wishes the agency to consider in connection with the revised proposal.

Thank you,

Nicole Hoey -S Digitally signed by Nicole Hoey -S
Date: 2020.06.04 14:56:30 -04'00'

Nicole Hoey
Contracting Officer